

# Amending Standing Orders

## Temporary Standing Orders

March 2021

In accordance with Standing Order 11.7(iv), the Business Committee is responsible for making recommendations on the general practice and procedures of the Senedd, including any proposals for the re-making or revision of Standing Orders.

This report recommends amendments to Standing Orders 12 and 34 to extend the effect of current temporary Standing Orders into the sixth Senedd.

The Senedd is invited to approve the proposals to amend the Standing Orders as at Annex A. The amended Standing Orders, if approved, are at Annex B.

The Senedd is also invited to note the Business Committee's recommendation regarding the use of remote electronic voting under Standing Order 34.14A, following the Senedd election, including for the purposes of electing the Presiding Officer and Deputy.



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# 1. Background

- 1.** The Senedd currently has two temporary Standing Orders:
  - i. Emergency Procedures to facilitate the continuation of Senedd business during the COVID-19 outbreak, set out in Standing Order 34, which expire on dissolution of the Senedd; and
  - ii. Proxy voting for Members on parental leave, set out in Standing Orders 12.41A-H, which expire on 6 April 2021<sup>1</sup>.
- 2.** Business Committee reviewed these temporary procedures as part of its review of Standing Orders.

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<sup>1</sup> 6 April 2021 was the anticipated date of dissolution under the Government of Wales Act 2006. Section 3(1) of the Welsh Elections (Coronavirus) Act changed the date of dissolution of the current Senedd to 29 April 2021

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## 2. Proxy voting

**3.** The Senedd agreed to introduce proxy voting for parental leave on 11 March 2020 on a temporary, trial, basis.

**4.** To date, one Member has voted by proxy in accordance with Standing Order 12.41A. Bethan Sayed MS arranged for Dai Lloyd MS to act as her proxy for a six month period (the maximum permitted by Standing Orders).

### **Review**

**5.** At the time the temporary procedure was introduced, the Business Committee undertook to evaluate the new proxy voting provisions before deciding whether to make the provision permanent, or expand eligibility to long-term illness and other caring responsibilities.

**6.** Due to the COVID-19 outbreak, the proxy voting procedures coincided with other temporary changes to voting arrangements, namely weighted and remote voting under Standing Order 34.11 – 34.14D. As a consequence, Bethan Sayed’s proxy arrangement did not end until 8 January 2021.

**7.** The Business Committee proposes to amend Standing Order 12.41H so that the Standing Orders on proxy voting cease to have effect on 1 August 2022, rather than 6 April 2021. This will enable proxy voting to continue, pending an evaluation by the Business Committee of the sixth Senedd.

### 3. Emergency procedures

- 8.** On 18 and 23 March 2020 the Senedd agreed temporary Standing Orders to provide for the continuity of Senedd business during the COVID-19 outbreak. These are contained in Standing Order 34; where the provisions contained in that Standing Order are in conflict with others, Standing Order 34 has precedence.
- 9.** The Government of Wales Act 2006 and Standing Orders refer to Members' 'participation' in proceedings, which can be done remotely or in person. However, some provisions of Standing Order 34 are required to conduct some aspects of virtual or hybrid Senedd proceedings, namely remote or weighted voting, and the disapplication of the requirement for in person public access to proceedings.
- 10.** Standing Order 34 will cease to have effect on the dissolution of the Senedd, or when the Senedd so resolves, whichever is sooner. Given the ongoing COVID-19 restrictions in Wales, the Business Committee considers it prudent for the provisions of Standing Order 34 to be in effect at the start of the next Senedd.
- 11.** The Business Committee therefore proposes that Standing Order 34.1 is amended so that Standing Order 34 will cease to have effect either on 1 August 2022, or when the Senedd so resolves, whichever is sooner. This will facilitate continuity of business at the start of the sixth Senedd allow for the new Business Committee time to review the operation of the Standing Order.

## 4. Remote Electronic Voting for the Election of the Presiding Officer and Deputy

**12.** The first business of the new Senedd will be the election of a Presiding Officer and Deputy. If there are two or more nominations, Standing Order 6.8 requires an election to take place by secret ballot.

**13.** Standing Order 34.14A allows for the Presiding Officer, having consulted Business Committee, to make arrangements for Members to vote from any location by electronic means, if she determines it is required for the protection of public health. This provision has been necessary for the Senedd's continued operation in virtual and hybrid formats during the COVID-19 pandemic.

**14.** On 22 February 2021, the Business Committee considered a paper setting out a method for conducting a secret ballot by electronic means using Microsoft (MS) Forms. The Committee agreed that the proposed method provides the appropriate degrees of anonymity and security to be used for electing the Presiding Officer and Deputy, if required.

**15.** At the start of the new Senedd, there will be no Business Committee in place for the Presiding Officer to consult regarding the use of remote electronic voting in accordance with Standing Order 34.14A.

**16.** It is the unanimous view of this Business Committee that - prior to the establishment of the Business Committee of the sixth Senedd - the Presiding Officer may make arrangements under Standing Order 34.14A for Members to vote from any location by electronic means, including for the purposes of electing the Presiding Officer and Deputy.

## 5. Decision

**17.** The Business Committee formally agreed the changes to Standing Orders on 16 March 2021 and the Senedd is invited to approve the proposed new Standing Orders at Annex B.

**18.** The Senedd is also invited to note the Business Committee's unanimous recommendation that - prior to the establishment of the Business Committee of the sixth Senedd - the Presiding Officer may make arrangements for Members to vote from any location by electronic means under Standing Order 34.14A, including for the purposes of electing the Presiding Officer and Deputy.

## Annex A – Proposed changes to Standing Orders 12 and 34, and explanatory notes

### Standing Order 12 – Business in Plenary Meetings

Decisions on Motions and Amendments	Retain heading
12.41 Subject to Standing Orders 12.41A-H, Members must cast their votes individually and in person (but are not obliged to vote).	<b>Retain Standing Order</b> Standing Order included for information
12.41A A Member may, by reason of absence from the Senedd for parental leave, arrange for their vote to be cast by another Member acting as a proxy (a proxy vote).	<b>Retain Standing Order</b> Standing Order included for information
12.41B Subject to Standing Order 12.41C, a proxy vote may be cast on all business in Plenary (including secret ballots under Standing Order 6 and Standing Order 17) and a Committee of the Whole Senedd.	<b>Retain Standing Order</b> Standing Order included for information
12.41C No proxy vote may be cast where legislation requires a resolution or motion to be passed on a vote in which the number of Members voting in favour of it is at least two-thirds of the total number of Senedd seats.	<b>Retain Standing Order</b> Standing Order included for information
12.41D A proxy vote must not count towards the numbers participating in a vote for the purposes of Standing Order 12.46.	<b>Retain Standing Order</b> Standing Order included for information

12.41E	A proxy vote may be cast only if the Presiding Officer has certified that the Member for whom the vote is to be cast is eligible under the terms of Standing Order 12.41A.	<b>Retain Standing Order</b> Standing Order included for information
12.41F	A vote cast by a proxy must be clearly indicated as such in the report of plenary proceedings or minutes of the Committee of the Whole Senedd.	<b>Retain Standing Order</b> Standing Order included for information
12.41G	The Presiding Officer, having consulted the Business Committee, must issue written guidance to Members under Standing Order 6.17 on the operation of voting by proxy for parental leave.	<b>Retain Standing Order</b> Standing Order included for information
12.41H	Standing Orders 12.41A - 12.41H, and the references to them in Standing Orders 12.41 and 17.48, will cease to have effect on <del>6 April 2021</del> <u>1 August 2022</u> .	<b>Amend Standing Order</b> The temporary provisions on proxy voting are extended to 1 August 2022, to allow time for the new Business Committee to carry out a review of their operation.

### **Standing Order 34 - Emergency Procedures**

34.1	Standing Order 34 makes temporary provisions to facilitate the continuation of Senedd business during the COVID-19 outbreak. Standing Order 34 will cease to have effect on <u>1 August 2022</u> <del>the dissolution of the Senedd</del> , or when the Senedd so resolves, whichever is sooner. Where provisions contained in Standing Order 34 are in conflict with other Standing Order provisions, those in Standing Order 34 must have precedence.	<b>Amend Standing Orders</b> The temporary provisions are extended to 1 August 2022, unless the Senedd resolves to remove them sooner. As well as allowing the Senedd to continue to operate in the context of the pandemic, this will allow the new Business Committee time to review the operation of the Standing Order.
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## Annex B – Standing Orders 12 and 34, as amended

### **STANDING ORDER 12 – Business in Plenary Meetings**

#### Decisions on Motions and Amendments

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- 12.41 Subject to Standing Orders 12.41A-H, Members must cast their votes individually and in person (but are not obliged to vote).
- 12.41A A Member may, by reason of absence from the Senedd for parental leave, arrange for their vote to be cast by another Member acting as a proxy (a proxy vote).
- 12.41B Subject to Standing Order 12.41C, a proxy vote may be cast on all business in Plenary (including secret ballots under Standing Order 6 and Standing Order 17) and a Committee of the Whole Senedd.
- 12.41C No proxy vote may be cast where legislation requires a resolution or motion to be passed on a vote in which the number of Members voting in favour of it is at least two-thirds of the total number of Senedd seats.
- 12.41D A proxy vote must not count towards the numbers participating in a vote for the purposes of Standing Order 12.46.
- 12.41E A proxy vote may be cast only if the Presiding Officer has certified that the Member for whom the vote is to be cast is eligible under the terms of Standing Order 12.41A.
- 12.41F A vote cast by a proxy must be clearly indicated as such in the report of plenary proceedings or minutes of the Committee of the Whole Senedd.
- 12.41G The Presiding Officer, having consulted the Business Committee, must issue written guidance to Members under Standing Order 6.17 on the operation of voting by proxy for parental leave.
- 12.41H Standing Orders 12.41A – 12.41H, and the references to them in Standing Orders 12.41 and 17.48, will cease to have effect on 1 August 2022.

## **STANDING ORDER 34 - Emergency Procedures**

- 34.1 Standing Order 34 makes temporary provisions to facilitate the continuation of Senedd business during the COVID-19 outbreak. Standing Order 34 will cease to have effect on 1 August 2022, or when the Senedd so resolves, whichever is sooner. Where provisions contained in Standing Order 34 are in conflict with other Standing Order provisions, those in Standing Order 34 must have precedence.